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March 25, 2013

**Via Electronic Filing**

Clerk, United States District Court  
Clarkson S. Fisher Federal Building & US Courthouse  
402 E. State Street  
Trenton, NJ 08608

**Re: Notice of Removal**  
**Mykolaitis v. Home Depot U.S.A., Inc., et al**

Dear Sir/Madam:

On behalf of Defendants, Tricam Industries and Home Depot U.S.A., Inc., attached please find a Notice of Removal Package, with regards to the above matter. By copy of this letter, we are simultaneously serving same upon the Deputy Clerk, Monmouth County Superior Court and our adversary.

Respectfully submitted,  
HILL WALLACK LLP

*Suzanne M. Marasco/s/*  
Suzanne M. Marasco, Esq.

SMM/dts

Enclosure

cc: Clerk, Monmouth County Superior Court (via Lawyer's Service)  
Jeffrey S. Intravatola, Esq. (via Lawyer's Service)

HILL WALLACK LLP  
202 Carnegie Center  
P.O. Box 5226  
Princeton, New Jersey 08543-5226  
(609) 924-0808  
Attorneys for Defendants,  
Tricam Industries & Home Depot, U.S.A., Inc.  
(i/p/a The Home Depot)  
by Suzanne M. Marasco, Esq. SMM 7439

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

RAYMOND MYKOLAITIS and MARIJA MYKOLAITIS,  Plaintiffs,  vs.  THE HOME DEPOT, HUSKY, TRICAM INDUSTRIES AND ABC CORPORATIONS 1-20 (being fictitious names),  Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MONMOUTH COUNTY DOCKET NO.: MON-L-579-13  <b>NOTICE OF FILING OF REMOVAL</b>  <b>DOCUMENT ELECTRONICALLY FILED</b>
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To: Jeffrey S. Intravatola, Esq.  
Hoagland, Longo, Moran, Dunst & Doukas, LLP  
40 Paterson Street  
P.O. Box 480  
New Brunswick, NJ 08903  
**Attorneys for Plaintiffs, Raymond & Marija Mykolaitis**

**PLEASE TAKE NOTICE** that in the above entitled action, Defendants, Tricam Industries and Home Depot U.S.A., Inc., have this day filed a Notice of Removal, a copy of which is attached hereto, in the office of the Clerk of the United Stated District Court for the District of New Jersey. You are advised that the Defendants, upon filing of said Notice of Removal, filed a copy of this Notice with the Clerk of the Superior Court of New Jersey, Law

Division, Monmouth County, which has effected this removal, in accordance with U.S.C. 1446(b).

HILL WALLACK LLP  
Attorney for Defendants, Tricam Industries  
& Home Depot U.S.A., Inc.

Dated: March 25, 2013

By: Suzanne M. Marasco /s/  
Suzanne M. Marasco, Esq.

HILL WALLACK LLP  
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Tricam Industries & Home Depot, U.S.A., Inc.  
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UNITED STATES DISTRICT COURT  
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RAYMOND MYKOLAITIS and MARIJA MYKOLAITIS,  Plaintiffs,  vs.  THE HOME DEPOT, HUSKY, TRICAM INDUSTRIES AND ABC CORPORATIONS 1-20 (being fictitious names),  Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MONMOUTH COUNTY DOCKET NO.: MON-L-579-13  <b>NOTICE OF REMOVAL</b>  <b>DOCUMENT ELECTRONICALLY FILED</b>
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To: Clerk, United States District Court, District of New Jersey

Tricam Industries and Home Depot U.S.A., Inc., Defendants herein, file this Notice of Removal of this action from the Superior Court of New Jersey, Law Division, Monmouth County, to the United States District Court for the District of New Jersey, Trenton Vicinage, and respectfully represents as follows:

1. On or about February 8, 2013, Plaintiffs filed a Complaint and Jury Demand in the Superior Court of New Jersey, Law Division, Monmouth County, against Defendants, Tricam Industries, Home Depot U.S.A., Inc. (improperly plead as The Home Depot), and Husky. A copy of Plaintiffs' Complaint is attached hereto as **Exhibit A**.
2. Defendant, Tricam Industries., was served with Plaintiffs' Summons and Complaint on February 22, 2013. See **Exhibit B**.

3. Defendant, Home Depot U.S.A., Inc., was served with Plaintiffs' Summons and Complaint on March 5, 2013. **See Exhibit C.**

4. Accordingly, this Notice of Removal is being filed within thirty (30) days of said dates in accordance with 28 U.S.C. § 1446(b).

5. As of this date, Defendants, Tricam Industries and Home Depot U.S.A., Inc., have not filed responsive pleadings in this action in the Superior Court of New Jersey, Law Division, Monmouth County, and no other proceedings have transpired in this matter to Defendants' knowledge.

6. Per the introductory paragraph of Plaintiffs' Complaint, the Plaintiffs reside in the City of Hazlet, County of Monmouth, State of New Jersey. **See Exhibit A.**

7. Defendant, Tricam Industries, is a Corporation, with its principal place of business located in Eden Prairie, Minnesota.

8. Defendant, Home Depot U.S.A., Inc., is a Corporation, with its principal place of business located in Atlanta, Georgia.

9. Defendant, Husky, is not a company, but rather a trade name used by the Home Depot.

10. As a result of the subject incident, Plaintiff sustained a left ankle fracture, as well as a tendon tear to his right shoulder, which required surgery.

11. The United States District Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because it arises between parties of different states and the amount in controversy is alleged to be in excess of \$75,000, exclusive of interest and costs.

12. Accordingly, venue is properly laid in the Trenton Vicinage of the District Court of New Jersey.

13. Pursuant to the above and pursuant to 28 U.S.C. §1441(a), Defendant, Home Depot U.S.A., Inc., seeks removal of this action to Federal Court.

**WHEREFORE**, Defendants, Tricam Industries and Home Depot U.S.A., Inc., pray that the above captioned matter, now pending in the Superior Court of New Jersey, Law Division, Monmouth County, be removed to the United States District Court for the District of New Jersey, Trenton Vicinage.

HILL WALLACK LLP  
Attorney for Defendants, Tricam Industries  
& Home Depot U.S.A., Inc.

Dated: March 25, 2013

By: Suzanne M. Marasco /s/  
Suzanne M. Marasco, Esq.

# EXHIBIT A

HOAGLAND, LONGO, MORAN, DUNST & DOUKAS, LLP  
40 Paterson Street, PO Box 480  
New Brunswick, NJ 08903  
(732) 546-4717  
Attorneys for Plaintiffs, Raymond Mykolaitis and Mary Mykolaitis

Plaintiffs,	SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY LAW DIVISION
RAYMOND MYKOLAITIS and MARIJA MYKOLAITIS	DOCKET NO.
vs.	CIVIL ACTION
Defendant,	COMPLAINT AND JURY DEMAND
THE HOME DEPOT, HUSKY, TRICAM INDUSTRIES, AND ABC CORPORATIONS 1-20 (being fictitious names)	

Plaintiffs, Raymond Mykolaitis and Marija Mykolaitis, residing at 21 Limerick Place, Hazlet, County of Monmouth, State of New Jersey, by way of Complaint, say:

FIRST COUNT

1. Plaintiffs, Raymond Mykolaitis and Marija Mykolaitis, reside at 21 Limerick Place, Hazlet, New Jersey.
2. Defendant, The Home Depot, is a retailer of home improvement and construction products and services and sells, among other things, ladders. Defendant has multiple locations in New Jersey including a store located at 3700 Route 35, Hazlet, New Jersey.
3. Defendant, Husky, is, upon information and belief, a company with headquarters located in Atlanta, Georgia. This defendant manufactures, designs, tests, distributes and/or sells or has manufactured, designed, tested, distributed and/or sold ladders.
4. Defendant, Tricam Industries, upon information and belief, has its main office located at 7677 Equitable Drive, Eden Prairie, Minnesota. This defendant designs, tests, distributes, sells and/or manufactures ladders or, in the past, has designed, tested, distributed, sold and/or manufactured ladders.

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MORAN, DUNST &  
DOUKAS, LLP  
ATTORNEYS AT LAW

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40 PATERSON ST  
PO BOX 480  
NEW BRUNSWICK, NJ

SOUTH JERSEY  
701 NEW JERSEY MALL RD  
SUITE 202  
HAMONTON, NJ

5. Defendants, ABC Corporations 1-20 are fictitious names intended to represent legal entities and/or companies and/or corporations that were engaged in the business of manufacturing, designing, testing, selling and/or distributing ladders and whose identities are presently unknown.

6. On or about February 18, 2011, plaintiff, Raymond Mykolaitis, was using a ladder identified as a Husky ladder which he had purchased from defendant, The Home Depot, at its Hazlet, New Jersey location.

7. While plaintiff, Raymond Mykolaitis, was using the ladder in question, it collapsed causing him to fall and sustain serious personal injuries.

8. The defendants were engaged in the business designing, manufacturing, testing, formulating, selling and/or distributing the ladder involved in Mr. Mykolaitis' accident.

9. Said ladder was dangerously defective, unfit and unsafe for its intended purposes and reasonably foreseeable users. This was due to manufacturing and/or design defects and/or inadequate warnings.

10. As a direct and proximate result of the defective ladder which was manufactured, designed, tested, formulated, sold and/or distributed by the defendants and the accident caused by said defects, plaintiff, Raymond Mykolaitis, sustained severe injuries.

11. As a result of the foregoing, the defendants are strictly liable for their wrongful conduct pursuant to N.J.S.A. 2A:58C-1 *et seq.* and/or common law.

WHEREFORE, plaintiff, Raymond Mykolaitis, demands judgment against the defendants for compensatory damages together with interest, costs of suit and all such other relief as the Court deems just.

#### SECOND COUNT

1. Plaintiffs repeat, reiterate and make a part hereof the allegations contained in the First Count of the Complaint as if same were set forth at length herein.

2. The defendants were negligent with regard to the design, manufacture, testing, formulation, sale and/or distribution of the ladder in question.

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SUITE 202  
HAMMONTON, NJ

3. As a direct and proximate result of the negligence of the defendants, plaintiff, Raymond Mykolaitis, sustained severe personal injuries.

WHEREFORE, plaintiff, Raymond Mykolaitis, demands judgment against the defendants for compensatory damages together with interest, costs of suit and all such other relief as the Court deems just.

THIRD COUNT

1. Plaintiffs repeat, reiterate and make a part hereof the allegations contained in the First and Second Counts of the Complaint as if same were set forth at length herein.

2. The defendants impliedly and/or expressly represented and warranted that said ladder was properly manufactured, designed, tested and formulated and was fit for its intended purpose.

3. The defendants have breached these implied and expressed warranties.

4. As a result of the foregoing, the defendants are strictly liable for the wrongdoing and wrongful conduct pursuant to N.J.S.A. 2A:58C-1 *et seq.* and/or common law.

WHEREFORE, plaintiff, Raymond Mykolaitis, demands judgment against the defendants for compensatory damages together with interest, costs of suit and all such other relief as the Court deems just.

FOURTH COUNT

1. Plaintiffs repeat, reiterate and make a part hereof the allegations contained in the First Second and Third Counts of the Complaint as if same were set forth at length herein.

2. The defendants are liable to the plaintiffs under the additional theories of negligence, strict liability and tort, breach of expressed warranties, breach of implied warranties of merchantability, fitness for a particular purpose, and inadequate warnings.

WHEREFORE, plaintiff, Raymond Mykolaitis, demands judgment against the defendants for compensatory damages together with interest, costs of suit and all such other relief as the Court deems just.

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SUITE 202  
HAMONTON, NJ

FIFTH COUNT

1. Plaintiffs repeat, reiterate and make a part hereof the allegations contained in the First, Second, Third and Fourth Counts of the Complaint as if same were set forth at length herein.
2. Plaintiff, Marlja Mykolaitis, is the wife of plaintiff, Raymond Mykolaitis.
3. As a result of the injuries suffered by her husband as aforesaid, plaintiff, Marlja Mykolaitis, has suffered the loss of usual service and consortium of her husband.

WHEREFORE, plaintiff, Marlja Mykolaitis, demands judgment against the defendants for compensatory damages together with interest, costs of suit and all such other relief as the Court deems just.

JURY DEMAND

Please be advised that Plaintiffs, Raymond Mykolaitis and Marlja Mykolaitis, hereby demand a trial by jury on all issues so triable.

TRIAL COUNSEL DESIGNATION

Pursuant to Rule 4:25-4, Jeffrey S. Intravatola, Esq. has been designated as trial counsel on behalf of Plaintiffs, Raymond Mykolaitis and Marlja Mykolaitis, in the above-captioned matter.

DEMAND FOR INSURANCE INFORMATION

PURSUANT to Rule 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

() Yes () No

If the answer is "yes", attach a copy of each or in the alternative, state under oath or certification:

- (a) policy number;
- (b) name and address of insurer or issuer;
- (c) the inception and expiration dates;
- (d) names and addresses of all persons insured thereunder;
- (e) personal injury limits;

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## CIVIL CASE INFORMATION STATEMENT (CIS)



Use for Initial Law Division - Civil Part pleadings (not motions) under Rule 4:6-1.  
Pleading will be rejected for filing, under Rule 1:6-6(o), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERKS OFFICE ONLY		
Payment Type:	CK	CG
CHG/CK NO.:		
AMOUNT:		
OVERPAYMENT:		
BATCH NUMBER		

ATTORNEY/PRO SE NAME Jeffrey S. Intravatola, Esq.	TELEPHONE NUMBER (732) 546-4717	COUNTY OF VENUE Monmouth
FIRM NAME (if applicable) HOAGLAND, LONGO, MORAN, DUNST & DOUKAS, LLP	DOCKET NUMBER (When Available) To Be Determined	
OFFICE ADDRESS 40 Paterson Street P.O. Box 480 New Brunswick, NJ 08903	DOCUMENT TYPE Complaint	
	JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

NAME OF PARTY (e.g. John Doe, Plaintiff) Raymond Mykolaitis and Mary Mykolaitis	OPAITION Raymond Mykolaitis and Mary Mykolaitis v. The Home Depot, et al
CASE TYPE NUMBER (See reverse side for listing): 606	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO  IF YOU HAVE CHECKED "YES", SEE N.J.S.A.2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, LIST DOCKET NUMBERS
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.		
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CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION		
DO PARTIES HAVE A CURRENT PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, IS THAT RELATIONSHIP <input type="checkbox"/> EMPLOYER-EMPLOYEE <input type="checkbox"/> FAMILIAL <input type="checkbox"/> OTHER (explain) _____	<input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> BUSINESS

DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY?		
<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:		
--	--	--

<input checked="" type="checkbox"/> DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:
WILL AN INTERPRETER BE NEEDED?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, FOR WHAT LANGUAGE:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).		
---	--	--

ATTORNEY SIGNATURE		
--------------------	--	--

JEFFREY S. INTRAVATOLA, ESQ.

Revised effective 7/1/2010, CN10617

SIDE 2



## CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:6-1

**CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)

**Track I - 180 days' discovery**

- 151 NAME CHANGE
- 176 FORFEITURE
- 302 TENANCY
- 398 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

**Track II - 300 days' discovery**

- 805 CONSTRUCTION
- 809 EMPLOYMENT (other than CEPA or LAD)
- 899 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE - PERSONAL INJURY
- 605 PERSONAL INJURY
- 810 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

**Track III - 480 days' discovery**

- 005 CIVIL RIGHTS
- 901 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 804 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

**Track IV - Active Case Management by Individual Judge / 480 days' discovery**

- 158 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 903 MT. LAUREL
- 808 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

**Centrally Managed Litigation (Track IV)**

- 280 Zelhorn
- 285 Stryker Trident Hip Implants
- 288 Prudential Tort Litigation

**Mass Tort (Track IV)**

- |                                       |  |
|---------------------------------------|--|
| 248 OIBA GEIGY                        | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 292 FOSAMAX                            |
| 271 ACCUTANE                          | 283 DIGITEK                            |
| 272 BEXTRA/CELEBREX                   | 284 NUVARING                           |
| 274 RISPERDAL/SEROQUEL/ZYPREXA        | 286 LEVAQUIN                           |
| 276 ORTHO EVRA                        | 287 YAZ/YASMIN/OEELLA                  |
| 277 MAHWAH TOXIC DUMP SITE            | 601 ASBESTOS                           |
| 278 ZOMETA/AREDIA                     | 619 VIOXX                              |
| 279 GADOLINIUM                        |  |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

Verbal Threshold

Putative Class Action

Title 50

# EXHIBIT B



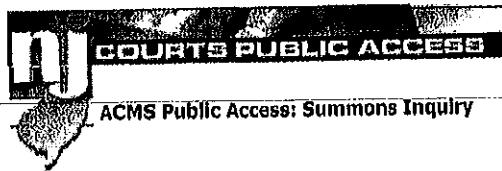
ACMS Public Access: Summons Inquiry



VENUE : MONMOUTH	COURT : LAW CVL	DOCKET # : L 000579 13
CASE TITLE : MYKOLAITIS ET AL VS THE HOME DEPOT ET AL		
FILING PARTY : MYKOLAITIS	RAYMOND	MULTI FILER : Y
SERVED PARTY : TRICAM INDUSTRIES		
SERVICE TYPE : PERSONAL		
PROOF/SERV DATE : 02 22 2013	DATE FILED : 03 12 2013	
NOTICE REQUEST : N	DOCUMENT IMPOUND : N	
ENTERED DATE : 03 13 2013		
LAST MAINT DATE : 00 00 0000		

Screen ID:CVM1015 Copyrighted © 2012 - New Jersey Judiciary  
Session ID: E9USGT Case Count: 1  
BUILD 2012.1.0.02.02 Timer Count down: 287

# EXHIBIT C



ACMS Public Access: Summons Inquiry



VENUE : MONMOUTH	COURT : LAW CVL	DOCKET # : L 000579 13
CASE TITLE : MYKOLAITIS ET AL VS THE HOME DEPOT ET AL		
FILING PARTY : MYKOLAITIS	RAYMOND	MULTI FILER : Y
SERVED PARTY : THE HOME DEPOT		
SERVICE TYPE : PERSONAL		
PROOF/SERV DATE : 03 05 2013		DATE FILED : 03 11 2013
NOTICE REQUEST : N		DOCUMENT IMPOUND : N
ENTERED DATE : 03 13 2013		
LAST MAINT DATE : 00 00 0000		

Screen ID:CVM1015 Copyrighted © 2012 - New Jersey Judiciary  
Session ID: E9USGT Case Count: 1  
BUILD 2012.1.0.02.02 Timer Count down: 295